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Small Entity Compliance Guide

Review of Part 87 of the Commission's Rules Concerning the Aviation Radio Service

WT Docket No. 01-289
FCC 10-103

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)
TTY: 1-888-TELL-FCC (1-888-835-5322)
Fax: 202-418-0232
fccinfo@fcc.gov

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I. OBJECTIVES OF THE PROCEEDING

In the *Third Report and Order* in WT Docket No. 01-289, the Commission amended Part 87 of the Commission's Rules in the interest of accommodating the communications needs of the aviation community to the greatest possible extent, and ensuring that aeronautical spectrum is used efficiently to enhance the safety of flight.

II. REGULATIONS AND POLICIES THAT THE COMMISSION ADOPTED OR MODIFIED, INCLUDING COMPLIANCE REQUIREMENTS

In the *Third Report and Order* the Commission took the following actions:

- Deleted the secondary allocation of the 117.975-136 MHz aeronautical frequency band for Aeronautical Mobile Satellite (Route) Service (AMS(R)S);
- Permitted the use of 8.33 kHz channel spacing in the aeronautical enroute service and by flight test stations;
- Removed one of four frequencies designated for Flight Information Services-Broadcast (FIS-B);
- Permitted the use of specified frequencies for air-to-air communications in Hawaii, and in the Los Angeles area;
- Clarified the applicability of the one-unicom-per-airport rule;
- Permitted the filing of applications to assign or transfer control of aircraft station licenses; and
- Prohibited the certification, manufacture, importation, sale, or continued use of 121.5 MHz emergency locator transmitters (ELTs) other than the Breitling Emergency Watch ELT.

A. AMS(R)S Operations in the VHF Band

The AMS(R)S is a radio service providing communications via satellite between aircraft earth stations and land stations or other aircraft earth stations. The Commission concluded that the aeronautical VHF band, 117.975-136 MHz, is too congested to accommodate AMS(R)S operations, and that AMS(R)S does not need access to the VHF aeronautical band because the service can be provided in any Mobile Satellite Service frequency band. The Commission thus deleted from the U.S. Table of Frequency Allocations note 5.198, which had allocated this band to AMS(R)S on a secondary basis.

B. Channel Spacing for the Aeronautical Enroute Service and Flight Test Stations

The Commission amended the Part 87 rules to accommodate the permissive use of 8.33 kHz channel spacing in the aeronautical enroute service. Prior to this amendment, the use of 25 kHz channel spacing was mandatory in United States airspace. The FCC was persuaded that it would serve the public interest to accommodate 8.33 kHz channel spacing in the aeronautical enroute service, but on a permissive rather than a mandatory basis. By providing for the permissive introduction of 8.33 kHz channel spacing in the aeronautical enroute service, the Commission provided the aviation industry with the ability to greatly enhance spectrum efficiency and alleviate frequency congestion, while avoiding the imposition of the significant compliance burdens that could result from a mandatory narrowbanding transition. With 8.33 kHz channel spacing, three channels of communications are available in the same amount of spectrum that previously carried only a single channel of communication. This should relieve frequency congestions in the aeronautical enroute service.

The Commission also concluded that it is appropriate to let Aviation Spectrum Resources, Inc. (ASRI) manage this transition rather than mandate the process through regulation. The FCC is aware that industry planning for a phase-in of 8.33 kHz channel spacing already has begun, and that leaving the management of that process to ASRI and the Aeronautical Frequency Committee in the first instance would best ensure the effective coordination of aeronautical enroute transmissions during the transition.

The Commission extended the option of operating with 8.33 kHz channel spacing to flight test stations in the 117.975-137 MHz band. Narrowbanding will also benefit flight test stations, which are likewise facing

increasing frequency congestion in U.S. airspace, and which already have considerable experience operating with 8.33 kHz channel spacing, because avionics manufacturers already test and install 8.33 kHz transmitters intended for use outside the United States. This action will permit an increase in interference-free flight test operations.

With respect to both aeronautical enroute stations and flight test stations, the FCC will begin accepting applications requesting authority to operate with 8.33 kHz spacing after the necessary modifications to the FCC's electronic filing system have been implemented. The Wireless Telecommunications Bureau is directed to issue a public notice to alert applicants when it is ready to begin accepting such applications.

C. Frequencies for Flight Information Services – Broadcast (FIS-B)

FIS-B is an aeronautical broadcast service providing safety-related and flight planning data to the cockpit via digital data link. The Commission concluded that one of the four frequencies designated for FIS-B use, 136.500 MHz, is no longer needed and removed the designation from section 87.187(dd).

D. Frequencies for Air-to-Air Use in Hawaii and in the Los Angeles Area

The Commission codified in Section 87.187 of its rules the terms of STAs previously granted to the Hawaii Air Tour Safety Working Group and to the Southern California Airspace Users Working Group. The rule change codifying the Hawaii STA authorizes the use of specified frequencies as air-to-air traffic advisory frequencies by air-tour operators, commercial operators, and the general aviation community in the Hawaiian Islands. The rule change codifying the Los Angeles area STA authorizes use of specified frequencies for air-to-air communications to alleviate frequency congestion stemming from extensive aviation training operations in the area.

E. Applicability of the One-Unicom-Per-Airport Rule

Unicom stations (also referred to as aeronautical advisory stations) provide safety-related and other information to aircraft, primarily general aviation aircraft. The Commission amended Section 87.215 to clarify the scope of the one-unicom-per-airport rule. The limitation is intended to apply to any airport that does not have a control tower, remote communications outlet, or FAA flight service station that effectively controls traffic at the airport, and accordingly applies to any airport where the airport's unicom frequency serves as the common traffic advisory frequency (CTAF).

F. Applications to Assign or Transfer Control of Aircraft Licenses

The Commission amended Section 1.948(b)(5) to remove the prohibition of applications to assign or transfer control of aircraft station licenses. The Commission believes that it will serve the public interest to permit the assignment and transfer of control of aircraft station licenses. It will be more administratively efficient than maintaining the current prohibition on applications to assign or transfer such licenses, and will reduce transactional costs for aircraft station licensees. The Commission will begin accepting applications to assign or transfer aircraft station licenses after the necessary modifications to the FCC's electronic filing system have been implemented. The Wireless Telecommunications Bureau has been directed to issue a public notice to alert applicants when it is ready to begin accepting such applications. Aircraft station licensees and potential licensees are cautioned that failure to obtain Commission approval prior to an assignment or transfer of control of an aircraft station license may result in enforcement action being taken against the entities involved.

G. ELTs Operating on the Frequency 121.5 MHz

The Commission prohibited certification, manufacture, importation, sale or continued use of 121.5 MHz ELTs, based on the February 1, 2009 termination of satellite monitoring of the frequency by Cospas-Sarsat satellite monitoring system and on recommendations from the National Oceanic and Atmospheric Administration, the U.S. Coast Guard, the U.S. Air Force, and the National Aeronautical and Space Administration. These agencies jointly administer Cospas-Sarsat and recommended that users of 121.5 MHz beacons switch to 406.0-406.1 MHz beacons, which are more accurate and reliable. The Commission will continue to permit, however, continued sale and use of the Breitling Emergency Watch pursuant to a WTB

waiver, which uses 121.5 MHz as a homing signal for search and rescue personnel and not for satellite alerting purposes.

III. RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS

The rule changes adopted in the *Third Report and Order* will not impose any additional reporting, recordkeeping, or other compliance requirements on small entities. However, some of the rules adopted in it may affect small businesses that manufacture aviation radio equipment.

For details of other compliance requirements refer to the *Third Report and Order*.

IV. WEBLINK

The *Third Report and Order*, FCC 10-103, adopted June 1, 2010 and released June 15, 2010. Final rules adopted in the *Third Report and Order* are effective on May 31, 2011.

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-103A1.doc

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-103A1.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-103A1.txt